

United States⁸
Circuit Court of Appeals
For the Ninth Circuit.

M. LAMBERT,

Plaintiff in Error,

vs.

THE UNITED STATES OF AMERICA,

Defendant in Error.

Transcript of Record.

Upon Writ of Error to the United States District Court of the
District of Nevada.

FILED
DEC 29 1921
F. D. MONCKTON,
CLERK

United States
Circuit Court of Appeals
For the Ninth Circuit.

M. LAMBERT,

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INDEX TO THE PRINTED TRANSCRIPT OF RECORD.

[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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Names and Addresses of Attorneys of Record.

Mr. M. B. MOORE, Reno, Nevada,

For the Plaintiff in Error.

Hon. WM. WOODBURN, United States Attorney
for the District of Nevada, Reno, Nevada, and
M. A. DISKIN, Esq., Asst. U. S. Attorney for
the District of Nevada, Reno, Nevada,

For the Defendant in Error. [1*]

In the District Court of the United States, in and
for the District of Nevada.

No. 5457.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

M. LAMBERT,

Defendant.

Stipulation Re Bill of Exceptions.

IT IS HEREBY STIPULATED by and be-
tween William Woodburn, United States District
Attorney for the District of Nevada, and M. B.
Moore, of Reno, Nevada, Attorney for the Above
Named, M. LAMBERT:

That the agreed statement of record on appeal
may and shall constitute the bill of exceptions and
complete record on writ of error when the certificate

*Page-number appearing at foot of page of original certified Transcript
of Record.

of the Clerk of the United States District Court for the District of Nevada, and the certificate of the presiding Judge of said Court, the Hon. E. S. FARRINGTON, shall be attached thereto.

Dated this 10th day of November, A. D. 1921.

WM. WOODBURN,

U. S. Attorney for the District of Nevada.

M. B. MOORE,

Attorney for Defendant.

[Endorsed]: No. 5457. Stipulation. United States of America, Plaintiff, vs. M. Lambert, Defendant. Dated November 10th, 1921. Filed Nov. 17th, 1921. E. O. Patterson, Clerk. M. B. Moore, Attorney at Law, Reno, Nevada. [3]

In the District Court of the United States, in and for the District of Nevada.

No. 5457.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

M. LAMBERT,

Defendant.

Agreed Statement for Record on Appeal.

William Woodburn, United States District Attorney for the District of Nevada, representing the plaintiff in the above-entitled action, and M. B. Moore of Reno, Nevada, attorney, and representing

the defendant in the above-entitled action, hereby agree to the following statement upon writ of error to the United States Circuit Court of Appeals for the Ninth Circuit:

1.

That on the 15th day of August, 1921, the above defendant, M. Lambert, came through Carson City, Nevada, to Reno, Nevada, driving an automobile; that he stopped his automobile on East Second Street, parking it against the curb opposite the Grand Buffet and Grand Cafe, two business houses in Reno; that while the defendant Lambert was absent from his automobile, J. P. Donnelley, the National Prohibition Director for the District of Nevada, and Jonathan Payne, a federal officer connected with the enforcement of prohibition in the District of Nevada, having had their attention directed to the said automobile by a man by the name of Edison, whose statement of information conveyed to the said Donnelley and Payne, is attached hereto, went to the point on the street where Lambert's automobile was standing at the time Lambert was not there, and neither of the officers had any warrant for his arrest, or any search-warrant whatever authorizing them to search the automobile; that the said Jonathan Payne engaged some person on [4] the street in conversation, leaning up against the tonneau; that in the tonneau of said machine was a package covered with a canvas. He reached back of him and felt of this

package, which afterwards was discovered to be a box tightly nailed up.

That he then turned facing the machine, leaned over, and looked into the tonneau and discovered a bottle about a quart in size, and about half full of a reddish liquid; the said Donnelley and Payne then stepped off on the street about fifty feet, waited until Lambert came over and got into his automobile, and started out—then jumped on the running-board of the automobile announcing that they were federal officers, and directed Lambert to drive down to the police station, which Lambert did.

2.

The officers then opened the box, which contained fifteen (15) or sixteen (16) bottles, afterwards had the contents analyzed and found it to contain intoxicating liquor. Lambert was placed under arrest and his automobile seized by the officers. Thereafter an information was filed in the United States District Court for the District of Nevada, charging Lambert with unlawfully having intoxicating liquor in his possession, and with unlawfully transporting intoxicating liquor.

After the filing of the information, and the arraignment of Lambert, a petition was filed, setting up the above state of facts, and praying that the said liquor be returned to the defendant, and that the liquor be excluded as evidence upon his trial, and that all testimony of Payne and Donnelley, relative thereto, be excluded and suppressed.

The said petition and motion was argued and the Court denied to suppress the testimony or exclude the liquor as evidence; exception to such ruling was taken and allowed. Lambert was brought to his trial, convicted, and sentenced to pay a fine of Five Hundred (\$500.00) Dollars and costs, and application [5] made to the Court to confiscate and sell the automobile. Motion was made for new trial and denied, and exception taken and allowed. Petition for writ of error and other necessary steps taken to perfect the writ of error. The defendant was released upon giving bond in the sum of Fifteen Hundred (\$1500.00) Dollars as supersedeas and cost bond.

The testimony of C. R. Edison, the only witness outside of Donnelley and Payne, is attached to this statement.

The contention of the defendant, as raised in said petition and motion, was and is that the search of his automobile, the seizure of its contents, and his arrest and consequent trial and conviction, was and is in violation of the provisions of the Fourth Amendment of the Constitution of the United States and the Fifth Amendment of the Constitution of the United States.

WM. WOODBURN,

Attorney for the United States.

M. B. MOORE,

Attorney for the Defendant. [6]

In the District Court of the United States, in and
for the District of Nevada.

No. 5457.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

M. LAMBERT,

Defendant.

Testimony of C. R. Edison, for Plaintiff.

C. R. EDISON, a witness called by the plaintiff,
after being sworn, testified as follows:

Direct Examination by Mr. DISKIN.

Q. What is your name, Mr. Edison?

A. C. R. Edison.

Q. Where do you live?

A. Wadsworth, Nevada.

Q. What is your business or occupation at the
present time?

A. Well, I haven't any at the present time—out
of employment.

Q. When you were working what was your
position?

A. I was deputy special officer in the United
States Indian Service.

Q. Were you employed by the Government on or
about the 25th of August, this year?

A. I was not.

(Testimony of C. R. Edison.)

Q. You were not following any employment at that time? A. No.

Q. Do you know the defendant in this case, M. Lambert? A. I have seen him before.

Q. Where did you see him?

A. The first time I saw him was out here at the foot of the Washoe grade.

Q. That is in Ormsby County, is it?

A. Yes. [7]

Q. How far, approximately, is the Ormsby grade from Reno?

A. I should think about thirty miles.

Q. Where was the defendant Lambert when you first saw him?

A. Standing in front of Dick Bright's Tavern.

Q. Dick Bright's Tavern, is that a roadhouse, do you know? A. Yes, sir.

Q. And where were you?

A. I stopped on the opposite side of the road with my car.

Q. When you saw the defendant what was he doing? A. Going towards the car.

Q. Did he have a car? A. He did.

Q. What kind of a car was it? A. Locomobile.

Q. Did you at that time make any examination of the car in reference to the license?

A. Yes, sir.

Q. And what did it disclose?

(Testimony of C. R. Edison.)

A. The first three numbers in this car was three fives.

Q. You don't remember the last three numbers?

A. I do not.

Q. Was it a Nevada or some other license?

A. It was a California license.

Q. How close did you come to this car at the time you first saw the defendant?

A. Oh, probably fifty feet, might have been seventy-five.

Q. Did you see the defendant do anything in respect to this car at that time?

A. I saw him step up on the running-board and put a bottle down in the car.

Q. How far away from the defendant were you?

A. I was standing in front of my car.

Q. And your car was how far from his car?

A. Oh, possibly between fifty and seventy-five feet.

Q. Were you able to distinguish what kind of a bottle it was? [8]

A. It looked like a whiskey bottle to me.

Q. About that size?

A. Yes, it looked like a quart bottle.

Q. Did you notice where he got the bottle from?

A. I did not; he seemed to have it in his hand when he walked up to the car.

Q. And dropped it in the car?

(Testimony of C. R. Edison.)

A. Just put it over the edge of the car, and laid it down.

Q. Was he near the center of the car or in front of the car? A. Right along at the back seat.

Q. Then what did he do?

A. Got in his car and drove off.

Q. What did you do?

A. After I filled my radiator I got in my car and followed him.

Q. You followed him?

A. That is, I went on up to Reno.

Q. You went from Carson City to Reno?

A. Yes.

Q. Do you know whether or not the defendant was ahead of you on the road? A. He was.

Q. When did you next see the defendant?

A. Well, I overtook the car about, oh, six or seven miles from there; I drove up pretty close behind him, and then he went on and met me again, and I didn't see him again until I got in Reno, I drove right along up beside of his car; his car was parked on Second Street.

Q. In front of what place?

A. It was just about in front of the Grand, a little up above from the Grand; in front of the Grand Cafe, or Grand Saloon it is called.

Q. Was any one in the car at the time you saw it at that place? A. There was not.

Q. Did you make any investigation of the car at that time?

(Testimony of C. R. Edison.)

A. I walked alongside of it and looked in it. [9]

Q. Did you see anything?

A. I seen the bottle that he put in the car.

Q. Did you make an examination of the bottle in the car? A. No.

Q. Do you know whether it contained any substance? A. It looked like it had whiskey in it.

Mr. MOORE.—I object to the answer as not responsive.

(The reporter reads the question.)

The COURT.—Answer that yes or no. Do you know whether it contained anything?

A. It did.

Mr. DISKIN.—(Q.) Do you know the substance that was in the bottle, in reference to color?

A. The color was the color of whiskey, that I see in the bottle.

Q. Did you make any other investigation of the car?

A. Not more than to take note of what kind of a car it was, and what it looked like.

Q. Where you saw this bottle in the car, was there any covering over that portion of the car?

A. No, not any more than the car had a big box in it, and had some old clothes, trash of some kind, in it.

Q. Could you see the box plainly?

A. I could the end of it.

Q. How about the top of the box?

(Testimony of C. R. Edison.)

A. It was covered up.

Q. What did you do then, Mr. Edison?

A. I went into the saloon.

Q. What saloon? A. The Grand.

Q. The Grand Buffet? A. Yes.

Q. How far away from the Grand Buffet was this car, approximately?

A. About as far as across this room, probably fifty feet, forty or fifty. [10]

Q. About fifty feet? A. Somewheres there.

Q. You have been in the Grand Buffet a number of times? A. Yes.

Q. What is it, a soft drink parlor?

A. A soft drink parlor.

Q. Did you see the defendant in the Grand Buffet? A. I did.

Q. At that time? A. I did.

Q. How long did you remain there?

A. Just walked in and looked around and went back out again.

Q. Where did you go then?

A. Over to Mr. Donnelley's office.

Q. Thereafter did you come back to the Grand Buffet? A. I did.

Q. Did you see the car there at that time?

A. The car was gone at that time.

Q. Then where did you go?

A. I took Mr. Payne in my car and drove around the town, looking, trying to locate the car.

(Testimony of C. R. Edison.)

Q. Did you thereafter see the defendant?

A. I did after that; yes.

Q. Where did you see him?

A. In the Grand Buffet.

Q. Was he talking to any one in the Grand Buffet? A. He was.

Q. Who was he talking to? A. Ed Regan.

Q. Who is Ed Regan?

A. One of the proprietors there, I understand.

Q. Did you hear any conversation the defendant had with Regan at that time? A. I did.

Q. What was said? [11]

A. I heard Mr. Regan tell him that he could not and would not handle that kind of stuff.

Q. Was anything said about a price?

A. I heard him say he could have it for twenty.

Q. In response to that Mr. Regan said he could not handle it?

A. Mr. Regan said that he could not handle that kind of stuff.

Q. Did you thereafter see the automobile which you have described as occupied by the defendant in front of the Grand Buffet?

A. I seen the car after that, but not in front of the Grand Buffet.

Q. Where did you see it?

A. It was over on the other side of the street.

Q. Did you see Captain Donnelly and Mr. Payne there? A. I did.

(Testimony of C. R. Edison.)

Q. What did the defendant do, if anything, in reference to this car at that time?

A. He got in it and backed it away from the sidewalk, backed it right out in front, and started down the street, and Mr. Donnelly got up on the car and talked to him; I came up on the other side, and Mr. Payne got up on the same side of the car that I was on.

Q. Where did the car go?

A. We rode around with him to the police station.

Q. Were the contents of that car examined in your presence? A. It was.

Q. What was found in the car?

A. Bottles of what I would suppose to be whiskey.

Mr. MOORE.—I move that be stricken, what he supposed.

The COURT.—What he supposed may be stricken out.

Mr. DISKIN.—(Q.) You saw a number of bottles, did you? A. I did.

Q. Were they filled with any kind of a substance?

A. Yes, sir.

Q. What was the color of the substance? [12]

A. Color of whiskey.

Q. And this was the same car and the same man that you saw on the road about twenty-eight miles from Reno? A. It was.

Mr. DISKIN.—Cross-examine.

Cross-examination.

Mr. MOORE.—Q. When you first saw the defend-

(Testimony of C. R. Edison.)

ant at Dick Bright's place, at the Tavern, he was coming out of the Tavern, was he?

A. He was down at the foot of the steps, just behind his car, when I first noticed him, and I drove up and stopped my car to get some water for my radiator.

Q. You didn't see him come out of the building?

A. No.

Q. And he had a bottle in his hand, and he put that bottle in the car? A. Yes, sir.

Q. And you were about fifty or seventy-five feet away? A. I was.

Q. And that is the nearest you were to him at the time you stopped at the Bright Tavern? You didn't see that bottle open, yourself? A. No, sir.

Q. You didn't open it yourself, or make any closer or other examination than that you have already stated? A. No.

Q. Now, when you were in the Grand and overheard this conversation, I understood that you heard Mr. Regan say that he could not and would not handle that kind of stuff? A. Yes, sir.

Q. And heard the statement that he could have it for twenty; that is all that you heard?

A. Yes, sir. [13]

Q. There are many different substances on the market of similar color to that, are there not, referring to Exhibit No. 1?

A. Well, I would say there was, yes; there is several different things something like the color of whiskey.

(Testimony of C. R. Edison.)

Q. And there are many and various substances that are contained in quart bottles, and in fifth quarts, too, are there not? A. Yes.

Q. You say that you are not a Federal officer, and were not on this date? A. No, sir.

Q. Are you under pay or retainer, employed to inform against anyone? A. I am not.

Q. You volunteered all this information?

A. I simply was assisting Captain Donnelly.

Q. Well, are you employed in any manner?

A. No, sir.

Q. Or under any agreement or contract with Captain Donnelly to assist him in investigations?

A. No, sir, nothing more than personal affair.

Q. You simply volunteer your services, or do you do it at his request?

A. On this occasion, yes, sir.

Mr. MOORE.—That is all.

Mr. DISKIN.—That is all. [14]

I, A. F. Torreyson, Reporter in the United States District Court for the District of Nevada, DO HEREBY CERTIFY:

That as such reporter, I took *verbatim* shorthand notes of the testimony given and proceedings had in said court on the trial of the case of United States of America, Plaintiff, vs. M. Lambert, Defendant, No. 5457, on October 20th and 21st, 1921;

That the foregoing transcript, consisting of pages 1 to 8, both inclusive, contains a full, true and correct transcription of my shorthand notes of the testimony of C. R. Edison, a witness called by the

plaintiff, and constitutes all of the testimony given by said C. R. Edison on said trial.

Dated Carson City, Nevada, November 21, 1921.

A. F. TORREYSON. [15]

In the District Court of the United States for the District of Nevada.

October Term 1921.

Honorable E. S. FARRINGTON, Judge.

No. 5457.

VIOLATION OF NATIONAL PROHIBITION
ACT.

UNITED STATES OF AMERICA

vs.

M. LAMBERT.

Judgment.

This being the time heretofore appointed for passing sentence in this case, the Court pronounced judgment as follows, addressing the defendant:

An information has been filed against you, M. Lambert, for the crime of violating the National Prohibition Act by unlawfully, willfully and knowingly transporting sixteen and one-half bottles of intoxicating liquor, containing one-half of one per centum, or more, of alcohol by volume fit for use for beverage purposes, in an automobile in and on the streets of Reno, County of Washoe, State of Nevada; and by having in your possession, unlawfully,

willfully and knowingly, intoxicating liquors containing one-half of one per centum, or more, of alcohol by volume and fit for use for beverage purposes; said crime having been committed on the 25th day of August, 1921, at Reno, Washoe County, State and District of Nevada, and within the jurisdiction of this court. You were duly arraigned upon that information, as provided by law, and on being called upon to plead thereto you pleaded not guilty. At a subsequent day you were placed on trial, by a jury of your own selection, and by the verdict of that jury you were found guilty as charged in the information. The defendant was then asked if he had any legal cause to show why the judgment of the Court should not now be pronounced against him. To which he replied that he had not.

In consideration of the law and the premises, it is hereby ORDERED AND ADJUDGED that you pay to the United States a fine of Five Hundred (\$500.00) Dollars, and that you stand committed to the care of the marshal until said fine and costs, taxed at \$74.65, are paid.

Dated and entered Oct. 21, 1921.

Attest: E. O. PATTERSON,
Clerk.

By O. E. Benham,
Deputy. [16]

In the District Court of the United States, in and
for the District of Nevada.

No. 5457.

UNITED STATES OF AMERICA,
Plaintiff,

vs.

M. LAMBERT,
Defendant.

Bail and Cost Bond on Writ of Error.

KNOW ALL MEN BY THESE PRESENTS:
That we, M. Lambert, of the City and County of
San Francisco, State of California, as principal,
and Philip Curti and W. M. Doyle, of the County
of Washoe, State of Nevada, as sureties, are jointly
and severally held, and firmly bound in the United
States of America, in the full and just sum of Fif-
teen Hundred (\$1500.00) Dollars, to be paid to the
United States of America, for which payment well
and truly to be made, we bind ourselves, our heirs,
executors and administrators, and assigns, jointly
and severally by these presents.

Sealed with our seals and dated this 21st day of
October, A. D. 1921.

The consideration for the foregoing bond and
obligation are as follows, to wit:

WHEREAS, lately on the said 21st day of Octo-
ber, A. D. 1921, at the court term of the District
Court of the United States in and for the District
of Nevada, in a cause pending in said court between
the United States of America, plaintiff, and M.

Lambert, defendant, a judgment and sentence was rendered and imposed against the said defendant as follows, to wit:

That the said M. Lambert be fined in the sum of Five Hundred (\$500.00) Dollars, together with the costs of suit; and [17]

WHEREAS, the said M. Lambert obtained a writ of error from the United States Circuit Court of Appeals for the Ninth Circuit to the said United States District Court for the District of Nevada, to reverse the judgment and sentence in the aforesaid suit, and a citation directed to the United States of America citing and admonishing the United States of America to be and appear in the said court (30) days from and after the date hereof, which citation has been duly served; and

WHEREAS, the said defendant, by an order of Court heretofore duly made and entered is required to enter into a bond in the sum of Five Hundred (\$500.00) Dollars to guarantee the payment of all costs in court; and

WHEREAS, the said defendant by the order of said Court has been required to enter into a bond in the sum of One Thousand (\$1,000.00) Dollars for his appearance in court at such time as he may be required, and for the payment of the fines and costs imposed, and as a stay of execution and super-seedeas therein.

NOW, THEREFORE, the condition of said obligation is such that if the said M. Lambert shall prosecute said writ of error to effect, and shall pay all damages and costs awarded against him on ac-

count of the suing out of the said writ of error, or on the dismissal thereof, not exceeding the sum of Five Hundred (\$500.00) Dollars, in which amount we acknowledge ourselves jointly and severally bound, and shall appear in person in the United States Circuit Court of Appeals for the Ninth Circuit when said cause is reached for argument, or when required by law or rule of said court, and from day to day thereafter in said court, until such cause shall be finally disposed of, and shall abide by, and obey the judgment and all orders made by the said Court of Appeals in said cause; and shall surrender himself in execution of the judgment and sentence appealed from, as said Court may direct, if the judgment and sentence against him shall be affirmed, and if he shall appear [18] for trial in the District Court of the United States for the District of Nevada on such day or days as may be appointed for a re-trial of said cause by said District Court, and abide by and obey all orders of said Court, provided that judgment and sentence against him shall be reversed by the United States Circuit Court of Appeals, then the above obligation to be void; otherwise to remain in full force, virtue, and effect, in the sum of Fifteen Hundred (\$1500.00) Dollars, in which amount we acknowledge ourselves, jointly and severally bound.

WITNESS our signatures this 25th day of October, A. D. 1921.

M. LAMBERT, (Seal)
Principal.

PHILIP CURTI, (Seal)
Surety.

W. M. DOYLE, (Seal)
Surety.

State of Nevada,
County of Washoe,—ss.

Philip Curti and W. M. Doyle, sureties on the annexed foregoing undertaking, being first duly sworn, each for himself and not one for the other, deposes and says: That he is a resident and freeholder within the County of Washoe, State of Nevada; and that he is worth the sum of Fifteen Hundred (\$1500.00) Dollars, over and above all his just debts and liabilities, in property not exempt from execution.

PHILIP CURTI.
W. M. DOYLE.

Subscribed and sworn to before me this 25th day of October, 1921.

[Seal] ANNA M. WARREN,
United States Commissioner for the District of Nevada.

[Endorsed]: No. 5457. In the District Court of the United States, in and for the District of Nevada. United States of America, Plaintiff, vs. M. Lambert, Defendant. Bail and Cost Bond on Writ of Error. Filed Oct. 26, 1921. E. O. Patterson, Clerk. M. B. Moore, Attorney at Law, Reno Nevada. Approved

as to form and sufficiency of sureties. Wm. Woodburn. Oct. 26, 1921. E. S. Farrington, U. S. Dist. Judge. [19]

In the District Court of the United States, in and
for the District of Nevada.

No. 5457.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

M. LAMBERT,

Defendant.

Praeipce for Transcript of Record.

To E. O. Patterson, Clerk, U. S. District Court,
Carson City, Nevada.

Will you please prepare copies of the following papers in the above-entitled case for the record and bill of exceptions upon the writ of error sued out in said case?

1. Copy of agreed statement for record on appeal of William Woodburn, United States District Attorney for the District of Nevada, and M. B. Moore, attorney for the defendant.

2. Copy of testimony of C. R. Edison, witness in behalf of the Government at the trial of said cause.

3. Copy of stipulation signed by William Woodburn, United States District Attorney for the District of Nevada, and M. B. Moore, attorney for the defendant, which stipulates what shall constitute the bill of exceptions on appeal.

4. Copy of supersedeas and cost bond.

M. B. MOORE,
Attorney for Defendant.

[Endorsed]: No. 5457. In the District Court of the United States, in and for the District of Nevada. United States of America, Plaintiff, vs. M. Lambert, Defendant. Praecipe. Filed Nov. 25th, 1921. E. O. Patterson, Clerk. M. B. Moore, Attorney at Law, Reno, Nevada. [20]

In the District Court of the United States, in and
for the District of Nevada.

No. 5457.

VIOLATION OF NATIONAL PROHIBITION
ACT.

UNITED STATES OF AMERICA

vs.

M. LAMBERT.

**Order Granting Defendant Ten Days to File
Agreed Statement of Facts.**

Good cause appearing therefor, it is ordered that the defendant herein be, and he is hereby, granted ten days from and after this date within which to file his agreed statement of facts in the United States Circuit Court of Appeals.

Done in open court this 21st day of November,
1921.

E. S. FARRINGTON,
Judge.

Attest: E. O. PATTERSON,
Clerk.

By O. E. Benham,
Deputy. [21]

In the District Court of the United States, in and
for the District of Nevada.

INDICTMENT FOR VIOLATION OF NA-
TIONAL PROHIBITION ACT.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

M. LAMBERT,

Defendant.

**Certificate of Judge to Agreed Statement of
Record on Appeal.**

United States of America,
District of Nevada,—ss.

The foregoing was prepared and submitted to me as an agreed statement of record of appeal, which shall constitute the bill of exceptions, and I do now, in pursuance of the consent of Wm. Woodburn, U. S. Attorney for the District of Nevada, certify that it is full, true and correct, and has been set-

tled and allowed and is made a part of the record of this cause.

Done in open court this 25th day of November, 1921.

E. S. FARRINGTON,
Judge. [22]

In the District Court of the United States for the District of Nevada.

Certificate of Clerk U. S. District Court to Transcript of Record.

United States of America,
District of Nevada,—ss.

I, E. O. Patterson, Clerk of the District Court of the United States for the District of Nevada, do hereby certify that I am custodian of the records, papers and files of the said United States District Court for the District of Nevada, including the records, papers and files in the case of United States of America, Plaintiff, vs. M. Lambert, Defendant, said case being No. 5457 on the docket of said court.

I further certify that the attached transcript, consisting of 23 typewritten pages numbered from 1 to 23, inclusive, contains a full, true and correct copy of the agreed statement in said case, together with the endorsements of filing thereon, as the same appears from the originals of record and on file in my office as such clerk in the city of Carson, State and District aforesaid.

I further certify that the cost for preparing and certifying to said record, amounting to \$3.65, has been paid to me by Mr. M. B. Moore, attorney for the defendant in the above-entitled cause.

WITNESS my hand and the seal of said United States District Court this 25th day of November, A. D. 1921.

[Seal]

E. O. PATTERSON,
Clerk U. S. Dist. Court, District of Nevada.
By O. E. Benham,
Chief Deputy. [23]

[Endorsed]: No. 3803. United States Circuit Court of Appeals for the Ninth Circuit. M. Lambert, Plaintiff in Error, vs. The United States of America, Defendant in Error. Transcript of Record. Upon Writ of Error to the United States District Court of the District of Nevada.

Filed November 28, 1921.

F. D. MONCKTON,
Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

By Paul P. O'Brien,
Deputy Clerk.

In the District Court of the United States, in and
for the District of Nevada.

No. 5457.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

M. LAMBERT,

Defendant.

Citation on Writ of Error.

The United States of America,—ss.

The President of the United States to the United
States of America, GREETING:

TO THE UNITED STATES OF AMERICA:

You are hereby cited and admonished to be and appear at the United States Circuit Court of Appeals for the Ninth Circuit, at the city of San Francisco, State of California, within thirty days from the date of this writ, pursuant to a writ of error duly allowed by the District Court of the United States in and for the District of Nevada and filed in the clerk's office of said court on the 21st day of October, A. D. 1921, in a cause wherein M. Lambert is appellant and you are appellee, to show cause, if any, why the judgment and decree rendered against the said appellant as in said writ of error mentioned should not be corrected, and why speedy justice should not be done to the party in that behalf.

WITNESS the Honorable E. S. FARRINGTON,
Judge of the District Court of the United States
in and for the District of Nevada, this 21st day of

October, A. D. 1921, and of the Independence of the United States, the one hundred and forty-sixth.

E. S. FARRINGTON,

District Judge.

Attest: E. O. PATTERSON,

Clerk.

By _____,

Deputy.

Service of the within citation and receipt of a copy is hereby admitted this 21st day of October, A. D. 1921.

_____,
U. S. Attorney, District of Nevada.

[Endorsed]: No. 5457. In the District Court of the United States, in and for the District of Nevada. United States of America, Plaintiff, vs. M. Lambert. Citation. Filed Oct. 21, 1921. E. O. Patterson, Clerk.

No. 3803. United States Circuit Court of Appeals for the Ninth Circuit. Filed Nov. 28, 1921. F. D. Monckton, Clerk.